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In re Application of
HICKS et al
Application No.: 09/230,275
PCT No.: PCT/US97/13321
Int. Filing Date: 23 July 1997
Priority Date: 24 July 1996
Attorney's Docket No.: 5093
For: CHOLESTEROL SEPARATION AND
FLUORESCENT ANALYSIS

DECISION ON

PETITION UNDER

37 CFR 1.137(b)

This is in response to the "Petition To Revive Unintentionally Abandoned Application" filed on 23 January 2001. The decision by this Office on 18 September 2001 was inadvertently mailed to the wrong address. On 2 January 2002, a copy of the 18 September 2001 decision was faxed to applicants' counsel. The facsimile restarted the time period.

BACKGROUND

In a decision from this Office on 18 September 2001, the petition filed on 14 July 2001 was dismissed. The decision stated that the petition did not satisfy requirement (1) of 37 CFR 1.137(b) because petitioner did not provide the proper reply; an executed declaration or oath was not submitted.

On 23 January 2002, petitioner submitted the instant petition under 37 CFR 1.137(b). The petition was accompanied by, *inter alia*, with an executed oath or declaration.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided the proper reply by submitting an executed declaration. In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3), and (4) under 37 CFR 1.137(b). Further, a review of the application reveals that the requirements under 35 U.S.C. 371 for entry into the national stage in the US have been satisfied.

DECISION

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **23 January 2002**.

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